

Summary of Public Comments for MaineCare 2023 Rate Determination Schedule

The Department of Health and Human Services held a public forum on October 24, 2022. Written and verbal comments were accepted through November 9, 2022. Comments were received from the following people:

Table of Commenters

1. Leah (Wright) Gordon of Northern Light Home Care and hospice
2. Adam LaMonica, Operations Manager at Maxim Healthcare
3. Tammy Polakowski RN, Nurse Coordinator, and Infection Control Nurse, COR Health Services.
4. Parame Limvattanaalert BSN, RN, Nurse Coordinator, COR health
5. Susan White, Administrator & Director of Nursing, COR Health
6. Jamie Poulin, In-Home Care worker
7. Laurie J. Belden, Executive Director, HomeCare and Hospice Alliance of Maine
8. RJ Gagnon, DBA, MBA, CHFP, CSAF, Chief Financial and Operating Officer, Androscoggin Home Healthcare and Hospice
9. Lindsey Howard, Director of Government Affairs at Maxim HealthCare Services, Inc.
10. Mark Eves, Executive Director of Woodfords Family Services
11. Pete Plummer, Chief Operating Office, Woodfords Family Services
12. Lynn Augustine, Creative Options
13. Ryan Gallant, owner/operator of Gallant Therapy Services
14. Scott Miller, Director, Creative Trails
15. Sue Murphy, VP of Adult IDD Services, Spurwink
16. Lianne Lewin-Grover, Program Coordinator, Creative Trails
17. Heather Wechsler, Team Leader, Art Certificate Program at Creative Trails
18. Joe Kuhn CEO of BFLI and Bancroft
19. Eric Schwan, Program Coordinator, Creative Trails
20. Steven McInnis, Section 21 Service Provider
21. Catherine Thibedeau, Executive Director of Independence Advocates of Maine (IAM)
22. Ryan Jackson, LSW, Director of Program Compliance, Northeast Residential Services
23. Laura Cordes, Executive Director, Maine Association for Community Service Providers (MEACSP)
24. Barbara Alberda, Tri-County Mental Health Services, Social Learning Center
25. Michelle Raymond, CEO Northern Maine General
26. Kristin Overton, Executive Director SKILLS, Inc.
27. Lisa Royce, Director of Finance, OHI
28. Dianne Cote, Executive Director, Personal Onsite Development
29. Elaine Croteau, Administrative Assistant, Personal Onsite Development
30. Ray Nagel, Executive Director, Independence Association
31. Todd Goodwin, CEO John F. Murphy Homes, Inc.
32. Matt Hickey, Chief Executive Officer, Creative Works
33. Angela Westhoff, President, CEO of the Maine HealthCare Association (NF/RCF)

Executive Summary of Comments

This Executive Summary reflects themes that emerged from multiple commenters. Comments from single commenters are not included in this summary. Please read the Detailed Summary of Comments below for a complete accounting of all comments. These materials summarize comments as presented and do not reflect agreement from the Department on the accuracy or conclusions of the comments.

Nine commenters supported the inclusion of Home and Community Nursing and Clinical services in the CY 2023 Rate Determination Schedule. These nine commenters shared struggles in obtaining staff due to low wages, which impact their ability to provide medically necessary services, decrease patient quality of life, and increase costs for the state due to increased stays in hospitals or placement in institutionalized care. They also noted that an aging population will increase demand on a system that is inadequate to meet current needs.

Thirteen commenters requested that Sections 21 (Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder) and 29 (Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder) Agency Home Supports and Community Support services be included in the CY 2023 Rate Determination Schedule. These commenters stated that there has not been a full rate study for Agency Home Support in over a decade: the current rates are based on a 2016 rate model, and that the Department updated this rate model without public notice, so there was no concurrent input from the public or provider agencies. Updated assumptions were based in part on more recent rate studies for Sections 18 and 20, which do not serve the same populations as Sections 21 and 29. They asserted that the current rate for the service is insufficient, with particular concern that rate model assumptions for program support needs were insufficient, and that they could not both afford to support all staff at 125% of minimum wage and cover program costs under the current rates. Commenters noted that there have been many new, unfunded Home and Community Based Services (HCBS) requirements added to the services for which the rates do not account, as well as the impact of the pandemic and high inflation and staffing shortages, and Portland minimum wage increases.

Five Commenters were in support of including Section 97, Appendix F, Non-Case Mixed Medical and Remedial Facilities in the CY2023 Rate Determination Schedule.

Three Commenters submitted comment in support of Section 102, Rehabilitative Services being included in the CY 2023 Rate Determination Schedule.

Detailed Summary of Comments

1. Comment: Commenter 1, of Northern Light Home Care and Hospice, expressed gratitude for the Department's consideration of adjusting reimbursement rates for Home and Community-Based Nursing and Clinical Services. Commenter states they have an underpayment from Medicare in the amount of \$378,000 based on current rates. Commenter shared that they provide pre- and post-hospital care in patient homes and feels this is a vital link to keeping

aging people in their homes again. Commenter shared that their organization admits people regardless of payor and provides quality in home care based on patient and family needs.

2. Comment: Commenter 2, an Operations Manager at Maxim Healthcare, expresses appreciation for the Department's consideration of Home and Community-Based Nursing and Clinical services under Sections 19 and 96. Commenter is providing comments, so DHHS understands the critical need for a redetermination schedule annually for nursing services.

Commenter shares they provide about 100,000 hours of service per year throughout Maine. In the Portland office they employ about 140 nurses and take care of about 75 patients a year, primarily offering private duty nursing under Section 19 and 96. Commenter notes that many of these patients are medically complex and vulnerable pediatric and adult patient populations that require assistive technology, such as vents and tracheostomies to sustain life.

Commenter states, Maine has utilized an outdated rate study from 2016 for current rates and it is required that reimbursement rates for home health and home care agencies be reviewed now, to determine ways of improving the transparency of the Medicaid rates for private duty nursing and other home health clinicians. This will help contain costs, promote better quality of life for Maine's patients and their families.

Commenter shares, these clinicians perform highly skilled tasks in the home each day, and save taxpayers, hundreds of thousands of dollars each year by allowing these medically fragile children and other adults to stay in their home as opposed to in a facility. Maine's reimbursement for these critical services needs to increase and be accountable to the public for those nurses to continue to care for their patients and perform this immense public service.

Commenter states the Rate Determination Schedule will ensure that patients and clinicians voices are heard each time the state reevaluates rates which will provide insight into the necessary information and data that impacts provider rates and families, livelihoods. Commenter goes on to state that they have several patients who waited to come home from the hospital, but due to lack of nursing availability and resources they must remain in that setting, and further points out that this is and will continue to cost the state thousands of dollars until reliable care can be accessible in the home.

Commenter explains that having nursing care in the home gives patients' families, and members comfort in knowing that their loved ones are well cared for appropriately. Commenter continues, the lack of private duty nurses pushes the burden on hospitals who don't have the beds or the resources for medically fragile children and adults' long term. Commenter would like to see this problem change over the years. Home Health stakeholders have advocated for fair rate adjustments for home health nurses and caregivers that reflect current economic factors, new administrative and federal requirements, minimum wage increases surrounding state wage increases, and other pertinent factors that have not always

been taken into consideration when establishing new rates. Commenter states this process has shaken agency confidence as there is no guarantee that the Department will establish new rates that will enable agencies to pay their clinicians the money that they deserve and need in this critical career, so that patients can remain in their homes with their families.

Commenter states during the pandemic nurses worked over-time, around the clock, braving the pandemic but did not receive nearly the same hazard or incentive compensation the nurses and other industries were allotted. Commenter hopes this redetermination schedule will allow the state to consider payment rates more consistently, and to adapt to the current environment and help combat the ongoing caregiver, workforce crisis and promote longevity in the home care industry, by offering steady incremental increases to ensure wages will be comparable to other nursing industries. Commenter thanks the Department for their support on behalf of Home Healthcare, and Private Duty Nursing services, under Section 19 and 96. Commenter hopes that the MaineCare Reform Expert Technical Advisory Panel will consider the great need for transparency and accountability and the re-establishing process.

3. Comment: Commenter 3 an RN, Nurse Coordinator, and Infectious Control Nurse at COR Health, providing services under Section 19 and 96, states the spot for Section 96 on the schedule is more important now than ever, it should be expedited and is critical to be able to continue providing services. Commenter 3 states this review should be expedited.

Commenter shares that all families want what is best for their child, but this is not something families can do on their own. Quality in home care makes a difference in all aspects of their lives to include medical, emotional, and financial wellbeing and when given the choice families will always choose quality of life over quantity. Commenter believes home and community-based services give them the ability to do and enjoy life while being as well as possible.

Commenter shared a personal story of a very medically fragile child who could not communicate or move his arms or legs, was confined to a bed or wheelchair and unable to leave home until finally securing nursing services. At school he participated physically and socially, and his parents were allowed consistency in their jobs. A full time RN attended school with him five days a week. He received physical therapy, occupational therapy, and speech language pathology twice a week as well as carry over at home through his RN. The commenter shares that although this put stress on his already compromised body, the family chose quality of life over quantity. A child who could not move his arms, legs, or communicate in any way, was now able to blink for yes and no answers. His life expectancy had been six months, but he lived five years beyond that. Commenter said this was the life he deserved, and it was thanks to nursing. Commenter shares the nurses that are in the home and attend school with these medically fragile children are real heroes. RN's that carry ventilators, O2 bottles, suction machines, and daily medications to school, just so their client may attend.

4. Comment: Commenter 4 who is a BSN, RN, Nurse Coordinator, at COR health is grateful that in-home nursing, for which there is a shortage, is a priority for the Rate Determination Schedule.

Commenter states that private duty nurses, provide holistic care for medically complex clients, administering medication, feed monitoring medical conditions, providing education to the family, accompanying clients to doctor appointments, schools, and therapy.

Commenter reflected on the positive impact home health has on their clients' quality of life and provided an example of one client's family, who was unable to find 24-hour care after looking for more than a year. The family had to take the client everywhere including the grocery store but with the help of in-home nursing, the client's medical needs were met in the home, and he is now able to resume school in person with the help of home nursing.

5. Comment: Commenter 5 is an Administrator & Director of Nursing, at COR Health providing both Section 96 and Section 19 services. Commenter expresses appreciation for the decision to advance the priority of rate review for nursing services. Commenter asks that we act quickly to preserve home health care services, that without immediate rate increases, more organizations, that provide these critical resources, and save so much money in comparison to other more institutionalized settings, are not going to be sustained.

Commenter shares that while home and community services have always had staffing shortages, what they've witnessed over the past few years has been heartbreaking. Commenter states they currently have 56 pediatric clients on services with five on hold due to no staffing available. Of the 51 they are staffing they are authorized for nearly 15,000 hours and they can only provide less than half of the hours that have been deemed medically necessary. Commenter continues they have another 26 clients who have been referred and are waiting for services, which represents another 7647 nursing hours (approx.) needed.

Commenter wants us to remember there are people behind the hours reported, who have medically fragile children that are unable to attend school without a nurse attending and parents whose lives are on hold while they wait for staffing to be found for their child. Staffing allows parents to hold employment, sleep at night, and to function as normal as possible in situations where, families often suddenly find themselves in the role of medical provider as well as parent, often with no background or experience, which in turn often leads to increased hospitalizations, poor outcomes, and the fraying of familial safety nets.

Commenter shares they have many nurses who are interested in home health care, that are genuinely excited to learn more about the services they provide and go through the interview process, but that excitement is quickly extinguished when pay is discussed. She states their rates are \$7-10 less than what they can earn in other settings and often, the applicant returns negotiating for higher rates that is more in line with other offers they have received. Commenter 5 shares they are currently offering all applicants the top of their pay scale to secure their services, but it isn't comparable, and they opt for positions that will provide them

and their families with a better standard of living than what they are able to offer. Commenter goes on to state, for every ten applicants they are lucky to hire one, and that rates are the number one determining factor that applicants give when declining job offers.

Commenter greatly appreciates the opportunity to present the cost of doing business and to have the rates set forth urgently reviewed against standard benchmarks. Commenter is confident that the rate study will demonstrate the critical need of Section 19/96 rates to be addressed.

6. Comment: Commenter 6 works in the home care industry and wanted to thank the Department for the expedited time and attention to the issue of reimbursement for nursing services. Commenter believes this is a crucial step in meeting a growing need in our communities, and with comprehensive rates home care providers will be able to provide in home care to a significantly larger base.

Commenter states rate changes have the potential to decrease hospital admission and readmission rates with early interventions available. Commenter shares, throughout the pandemic their pediatric departments specifically, saw a significant decrease in hospital admissions directly related to increased nursing care in the home and that clients benefited from nurses that sought to leave hospital....(disconnected)... now that supplemental funds have been exhausted, many of the nurses they did have, have returned to the hospital, or sought employment with better compensation, leaving clients without the excellent preventative care they so richly benefited from. Commenter states in-home care has often been associated with per-diem positions and rate increases bring with it the potential to offer more full-time, long-term positions to employees and more consistent care.

Commenter believes with the ever-increasing median age of the MaineCare population, the need for services such as Section 19 provided by home care agencies, increases daily. Commenter concludes, providing fair compensation for all aspects of the Sections set to be evaluated; 19, 20, 21, 40, 96, and 102, under our elder high need communities continue to add consistent, exceptional nursing care. Commenter thanks the Department for thinking of our medically fragile community members by considering this urgent need.

7. Comment: Commenter 7, is Executive Director of Home Care and Hospice Alliance of Maine. Commenter is appreciative to see that nursing services for Sections 19, 96, and 40 have been listed as a priority for CY 2023 so that they can be more competitive in recruiting professionals to meet the needs of patients. Commenter looks forward to working together with MaineCare and the Technical Advisory Panel (TAP) to address rates for RN & LPN services across Secs. 19, 96, and 40 in the coming year to ensure stability for these critical programs.

Commenter 7 states the workforce shortage in nursing is chronic across the entire healthcare continuum; however, the primary reason that home care providers are unable to hire and retain enough nurses is not due to a lack of applicants – it is directly due to the low

reimbursement rate from MaineCare. Commenter shares that lagging reimbursement rates were cited as Assistance Plus' rationale for terminating nursing services back in May and why other providers have had to make the difficult decision to decline onboarding beneficiaries due to lack of staff which they attribute to their inability to retain and recruit RNs and LPNs with a competitive wage and benefit package.

Commenter 7 goes on to states that in-home nursing services provide patients with care ranging from basic activities of daily living to more medically complex care such as seizure management, feeding tube maintenance, medication administration, airway/ventilation care, as well as several other interventions.

Commenter states keeping these patients in the home is a safe (and patient-preferred) alternative to receiving such care in acute, institutional settings. As we have illustrated in past advocacy efforts, hospitals, nursing homes, etc., are all able to offer higher rates of pay and incentive bonuses for several reasons including receiving higher State reimbursement, more private pay patients, other streams of profitable services, etc.

Commenter 7 points out the average hospital RN rate of pay in Maine right now is approximately \$36/hour and that up until the recent Cost of Living Adjustment (COLA) adjustment, the MaineCare reimbursement rate for RN labor was \$29/hour. Seven dollars an hour is a stark difference, one that means home care providers are unable to compete for talent.

Commenter adds, the current rates don't account for increased costs for benefits and mileage reimbursement; nor the costs associated with the implementation of Electronic Visit Verification (EVV), background checks, etc. (none of which were anticipated when the rates were last studied in 2016).

8. Comment: Commenter 8, Chief Financial and Operating Officer for Androscoggin Home Healthcare and Hospice, states that increased rates will help ensure Mainers continue to have access to the quality of care they deserve while in the comfort of their home. Commenter looks forward to being part of the solution with the administration to accelerate the timeline for rate adjustments for RN and LPN services and indexing to Medicare benchmarking.

A core function of Commenter's job is to support financial sustainability within the organizations various service lines, and under the current payment model (Section 40), Commenter struggle to achieve that for Medicaid beneficiaries. Since 2019, the cost per visit to provide nursing services has increased by an astounding 70% due to inflationary factors related to the pandemic, increased cost of contracted support and the lack of workforce. Commenter continues, the current MaineCare payment rate for nursing services only covers 58% of our current direct care costs. This is not a sustainable model to provide services to patients across all sixteen counties, especially as Medicare and other third-party payer rates fail to cover the

cost of doing business in Maine. Commenter states that the indexing to the Medicare low-utilization payment rate is critical for provider financial stability and more closely aligns rates to our current cost structures. Indexing will allow predictability and financial stabilization, but it will also allow providers to focus their time, energy, and resources to promoting access and providing patient care.

Commenter suggests, if MaineCare desires a comprehensive network of providers, we need a thoughtful model that mitigates the risks associated with the current unstructured rate methodology. Commenter is encouraged to see the State of Maine considering the precedence set by other states (Including Washing, Oregon, and Colorado) to index Medicaid rates to the Medicare low-utilization payment rate. This change comes at a critical time as Maine is the oldest stat in the nation, which oftentimes translates to increased demand for services, including health care at home, which is clearly the low-cost provider by comparison. Commenter 8 states, MaineCare Sections 19 and 96 rates for RNs were implemented in 2018 from a study conducted by Burns & Associates, Inc. The data used in that rate study was from 2014 and earlier, which does not include recent inflationary factors. Inflation rate in 2014 was 1.62% while the rate for 2022 is 8.2%.

Commenter states, the Comprehensive Rate System Evaluation (CRSE) that was conducted illustrates that Sections 19 and 96 nursing rates are low and need to be updated, though rate adjustments continue to lag. Low rates prevent investment in the necessary workforce to provide the requisite care under the Sections at issue. Commenter comments, providers simply cannot compete. Failure to address these rates will, absent all hyperbole, eliminate these services for MaineCare beneficiaries. Androscoggin no longer has the capacity to cost-shift Medicaid losses to payers that offered a margin (once upon a time). This is approaching crisis-level funding in Maine.

9. Comment: Commenter 9 is the Director of Government Affairs at Maxim HealthCare Services Inc.. Commenter thanks the Department for its support and for understanding the critical need for a Rate Determination Schedule annually for nursing services across the state, under Sections 19 and 96 and hopes that the MaineCare Reform Expert TAP will consider the great need for transparency and accountability in the rate establishing process.

Commenter shares, Maxim is a member of the Home Care and Hospice Alliance of Maine (Alliance), which represents the interests of home health providers throughout the state. Commenter shares, Maxim provides about 100,000 hours of service per year throughout Maine via their Portland office employing approximately 140 nurses who care for over 75 patients a year, primarily offering Private Duty Nursing (PDN). These services are provided in the home for medically complex and vulnerable pediatric and adult patient populations under Medicaid, many of whom require assistive technology such as ventilators and tracheostomies to sustain life.

Commenter stated that Maine is utilizing an outdated rate study from 2016 which does not account for current expenses. There also does not appear to be a process for an annual review of rates for home health and home care agencies. Commenter shares that improving the process for and the transparency of Medicaid rates for PDN and other home health clinicians will help contain costs and promote better quality of life for Maine's patients and their families.

Commenter stated clinicians who perform these highly skilled tasks in the home each day save taxpayers hundreds of thousands of dollars each year by allowing medically fragile children and older adults to stay in their home. Maine's reimbursement for these critical services must increase for these nurses to continue to care for their patients and perform this immense public service.

Commenter relayed that Maxim currently has several patients who are ready for discharge from the hospital but cannot leave because there are no home care nurses available to take care of them. The state is therefore incurring significantly higher reimbursement costs for these patients in the hospital setting. The lack of PDN increases costs to the state and heightens the burden on hospitals that do not have the beds and resources for medically fragile children and adults long term. This problem is easily resolved by increasing reimbursement rates for PDN.

Commenter shared that over the years, home health stakeholders have advocated for fair rate adjustments for home health nurses and caregivers that reflect current economic factors, new administrative and federal requirements, minimum wage increases, surrounding state wage increases, and other pertinent factors that have not always been taken into consideration by the Department when establishing new rates. This process has shaken our confidence, as there is no guarantee that the department will establish new rates that enable agencies to pay their clinicians the money they need to serve in this critical career, so that patients can remain in their homes with family.

Commenter concludes, the lack of a Rate Determination Schedule was especially problematic over the past three years during the pandemic as many home health nurses worked overtime, braving the pandemic, and they did not receive nearly the same hazard or incentive compensation that nurses in other industries were allotted. An annual Rate Determination Schedule will allow the state to consider payment rates more consistently and adapt to the current environment. Commenter hopes that this schedule will also help combat the ongoing caregiver workforce crisis and promote longevity in the home care industry by offering steady, incremental increases to ensure wages will be comparable to other nursing industries.

10. Comment: Commenter 10 is Executive Director of Woodfords Family Services, a member of the MaineCare Advisory Committee (MAC) and is a Board Member of the Maine Association for Community Support Providers, (MACSP). Commenter specifically requests that Section 21's T2016-Agency Home Support service be included for this year's Rate Determination Schedule so that a transparent, publicly noticed, rate study, with stakeholder input may be conducted.

Commenter shares that of the dozens of MaineCare services provided to more than 5,000 adults with intellectual disabilities, autism, and brain injuries, that Woodfords supports, largely fall under MaineCare Waiver sections 13, 18, 20, 21, 29, 97 Appendix F, and 102. Commenter is glad to see Section 97 Appendix F, as well as some services under 102 included in the schedule.

Commenter asks for (the Departments) support in including specific rate studies for Section 21 and 29 home and community support services. Commenter acknowledges home supports for Section 21 and 29 appear to be included in the schedule but there might be an adjustment. Commenter 10 explains group homes for adults with disabilities, provide between two and six adults, with 24/7 specialized support in homes in the community throughout the State and that the service has not had a rate study in well over a decade. Commenter 10 acknowledges the Department increased the labor components of the rates in July of 2021, and January of 2022, as part of the AAAA 125% minimum wage requirement, a legislative initiative, which they deeply appreciate, as up until July 2021 labor components of that established rate had been nearly a dollar below minimum wage at \$11.22.

Commenter goes on to state they were unaware that when the department increased the rate in 2021, that they also adopted a new rate model/methodology for the service, which decreased the percentage of program costs that make up this rate. So, while the labor costs technically support 125% of minimum wage, the concurrent program cut in that methodology does not adequately support the program costs, leaving providers with a rate that does not adequately support the staff and program costs for the service.

Commenter further states, the review of this rate was not publicly noticed, did not involve a new rate study, provider input or outreach to stakeholders, to review the model or methodology which in stark contrast to the current Burns & Associates rate setting process that the department is currently engaged in for Sections, 13, 21, 29, 65, and 92. Commenter states that MACSP members provide all these services and have been impressed with the data gathering from providers and the transparent process the department has engaged in.

Commenter respectfully asks that Sections, 21 and 29, T2016 services be given the same stakeholder engagement opportunity as more than 47 group homes have closed or collapsed in the last 18 months disrupting hundreds of MaineCare members, often uprooting them from the communities where they have built meaningful connections and lives. Commenter anticipates another 30 closings by the end of this year and does not believe that the determination the Department conducted last year meets their previous or current goals for transparency and stakeholder input.

Commenter adds, community support services under Sections 21 and 29 have undergone significant rule and waiver changes following a rate determination which was conducted in 2020 that did not involve provider input but was based on a rate study conducted for Sections 18 and 20, with input solely from providers of brain injury, services, and services for persons with other related conditions.

11. Comment: Commenter 11, Chief Operating Officer at Woodfords Family Services, proposes the Department place T2016 Agency Home Support into the annual Rate Determination Schedule for 2023.

Commenter is pleased to see that the Department is formally going through many of the MaineCare rates in a clear and transparent process with the goal of finalizing rates that will offer choice and access for MaineCare members. Commenter refers specifically to Section 21 (T2016 Agency Home Supports) and Section 65 (H2021 Home and Community Based Treatment); Section 21 (T2016 Agency Home Supports) has already gone through a rate setting process and an hourly rate of \$32.13 has been established. Commenter understands this rate will receive an increase of 4.94% as of January 1, 2023, bringing the hourly rate to \$33.72 per hour. Commenter speaks to the process followed when establishing this rate: the \$32.13 rate was based upon data in an earlier Burns & Associates model that the legislature rejected. The Burns & Associates model replaced the rate model established by Deshaies many years ago, was done without input from the public or provider agencies. Commenter states there was lack of transparency and therefore proposes the Department place T2016 Agency Home Support into the annual Rate Determination Schedule for 2023. Commenter requests the following specifically for consideration:

- Include the T2016 Agency Home Support Rate along with the other Section 21 rates for review.
- Going to a “True” per-diem vs. the current model. The current model is a per-diem rate but is an hourly rate with a cap of service delivery hours that must fall within a designated billable window of approved hours.
- Retain the K-waiver widening of the billing window to remain at 80% on and after January 1, 2023, when this billing window is scheduled to end and return to the pre-pandemic 92.5%.
- Use Deshaies rate model which recognizes ‘Program Support’ costs where Burns rate model does not and adjust the T2016 rate to recognize the costs of program supports. Not doing so leaves the cost of providing these program support costs in the hands of providers. There are new unfunded HCBS requirements levied on providers, which we agree are needed.
- For agencies to meet the program support needs of the beneficiaries, they must pay the Direct Care Professionals (DSPs) a wage lower than the Burns 2016 hourly rate, to provide a living environment that follows HCBS guidelines, is safe, offers members choice, supervision of staff, transportation needs, PCP supports and many other program related costs.
- If DHHS chooses to retain the old Burns model, at a minimum, the 4.94% inflation adjustment should be increased to the 13.59% inflation factor that Burns & Associates is using in the current Proposed Rate Models for all other services effective January 1, 2013.

12. Comment: Commenter 12 works at Creative Options, providing Section 21 Agency Home Supports and Section 21/29 Community Support Services. Commenter ask that these services be included in the Rate Determination Schedule.

13. Comment: Commenter 13 is the owner/operator of Gallant Therapy Services providing Community Support Services through Section 21 and Section 29. Commenter asks that Community Support Services be included in the 2023 rate review schedule.

Commenter states there have been numerous changes to this service, but rates do not accurately reflect the scope of work involved in providing the service. The costs of providing the service have increased tremendously in terms of additional administrative work and the staffing involved. Commenter shares there have been numerous new trainings for staff and other service mandates since the implementation of the HCBS project, which has greatly increased the financial burden of providing these essential services. Commenter thanks the Department for its work and consideration in addressing this much needed rate review.

14. Comment: Commenter 14, is the Director and founder of Creative Trails, which is the HCBS-Approved Community Support program of Support Solutions. Commenter 14 requests that Community Support providers be included in the rate study process.

Commenter is concerned that Community Supports received no rate increases when other Sections received the 125% rate increase for minimum wage or the 4.9% COLA and that this has had a dramatic and negative impact on service quality for waiver recipients and the sustainability of the service in the state of Maine. Commenter 14 shares that the Office of Aging and Disability Services (OADS) indicates the current rates are high per a previous rate study that they have not seen and therefore were not entitled to receive an increase. Commenter states this is not valid when you consider how the pandemic changed the industry, HCBS remediation needs, inflation, Portland wage increases, and the staffing crisis.

Commenter is concerned, that there is no current accurate Community Support rate study that is open to the public for review and that per federal law they should have access to this information. The last study available to the public is outdated and does not consider the new HCBS changes and inflation. Commenter notes, the last Burns & Associates rate study provides only one hour for documentation time per week for a 1:3 ratio, which is not accurate with the MaineCare required documentation standards or the new HCBS/OADS therapy doc template recently released for provider use. Commenter states it takes five hours per week to meet both standards which is five times more than the most recent rate study shared with the public. Commenter 14 states this study and methodology does not consider the new tier model complexities which are confusing, unrealistic and has a negative financial impact on the service,

further, it does not consider the minimum wage increases that have and continue to take place in Portland.

Commenter states the new community supports tier rate model needs to be reexamined as it is confusing, and it is imperative the 1:3 average is put back in place and that the new imposed 1:3cap is removed. By not having the average it does not allow for the flexibility the service needs to meet the waiver recipients HCBS needs around choices. Commenter 14 states it also does not support the day-to-day realities providers face with staffing complexities and the unpredictability of transportation services. Commenter 14 asks that providers have the ability to implement quality individualized services following a 1:3 ratio that allows flexibility to not exceed a 1:6 ratio with the intent the only time you would exceed the 1:3 ratio would be to meet the individuals HCBS standards, person centered planning goals, diagnosis needs, and avoiding impeding on services authorizations, like sending individuals home to meet a 1:3 cap due to various reasons.

15. Comment: Commenter 15, VP of Adult IDD Services for Spurwink asks, that Section 21, T2016 be included in this year's Rate Determination Schedule and be given the same stakeholder engagement opportunity as other services that have been part of the process so that consideration be given to a fair and just rate to enable individuals the freedom to stay in their homes.

Commenter provides the following comments regarding Section 21 Agency Home Support Services, T2016:

- Spurwink provides services to 65 individuals with intellectual disabilities who reside in 22 locations in southern Maine, who receive 24/7 specialized support. The service has not had a rate study in well over a decade.
- The Department did increase the labor components of the rates in July 2021 and January 2022 as part of the AAAA 125% legislative initiative, which was deeply appreciated. However, up until July of 2021 labor components had been nearly \$1.00 below the minimum wage of \$11.22.
- Spurwink and other providers were not aware that when the Department increased the rate in 2021 that a new rate model and methodology was adopted for this service that decreased the percentage of program costs that make up this rate.
- The review of this rate was not publicly noticed, did not involve a new rate study, and did not include provider input or outreach to stakeholders to review the model or methodology.
- So, while the labor costs technically support 125% of minimum wage, the rate does not adequately support the program costs, leaving Spurwink and other providers with a rate that does not adequately support the staff and program costs for the service.

Commenter shares that in the last 18 months, 47 Home Support/ group home settings have closed in the state. Since the beginning of 2021 Spurwink was had to close 4 group home settings because of insufficient funding, forcing individuals to leave their homes.

Commenter appreciates the commitment and efforts the Department has made to create a clear and transparent process for rate setting with Sections 13, 21, 29, 65 and 92 with publicly posted and predictable opportunities for stakeholder input.

16. Comment: Commenter 16, Program Coordinator, Creative Trails, asks that Community Support services be included in the rate study process as soon as possible or risk a full collapse of services

Commenter is concerned that Community Supports received no rate increases when other Sections received the 125% rate increase for minimum wage or the 4.9% COLA and that this has had a dramatic and negative impact on service quality for waiver recipients and the sustainability of the service in the state of Maine. Commenter shares that OADS indicates the current rates are high per a previous rate study that they have not seen and therefore were not entitled to receive an increase. Commenter states this is not valid when you consider how the pandemic changed the industry, HCBS remediation needs, inflation, Portland wage increases, and the staffing crisis.

Commenter is concerned, that there is no current accurate Community Support rate study that is open to the public for review and that per federal law they should have access to this information. The last study available to the public is outdated and does not consider the new HCBS changes and inflation. Commenter notes, the last Burns & Associates rate study provides only one hour for documentation time per week for a 1:3 ratio, which is not accurate with the MaineCare required documentation standards or the new HCBS/OADS therapy doc template recently released for provider use. Commenter states it takes five hours per week to meet both standards which is five times more than the most recent rate study shared with the public. Commenter 14 states this study and methodology does not consider the new tier model complexities which are confusing, unrealistic and has a negative financial impact on the service, further, it does not consider the minimum wage increases that have and continue to take place in Portland.

Commenter states the new community supports tier rate model needs to be reexamined as it is confusing, and it is imperative the 1:3 average is put back in place and that the new imposed 1:3 cap is removed. By not having the average it does not allow for the flexibility the service needs to meet the waiver recipients HCBS needs around choices. Commenter states it also does not support the day-to-day realities providers face with staffing complexities and the unpredictability of transportation services. Commenter asks that providers have the ability to implement quality individualized services following a 1:3 ratio that allows flexibility to not exceed a 1:6 ratio with the intent the only time you would exceed the 1:3 ratio would be to

meet the individuals HCBS standards, person centered planning goals, diagnosis needs, and avoiding impeding on services authorizations, like sending individuals home to meet a 1:3 cap due to various reasons.

Commenter states, Community Support needs the 125% increase and 4.9% COLA that was given to all other healthcare sectors. It also needs rates that meet the needs to comply with the HCBS services. If Maine does not want a full collapse of this service that thousands of waiver recipients rely on for ISP's: skill development, community connectivity, wellbeing, career exploration and more... action needs to take place ASAP.

17. Comment: Commenter 17, Team Lead for the Art Certificate Program at Creative Trails, asks that Community Support services be included in the rate study process as soon as possible or risk a full collapse of services

Commenter is concerned that Community Supports received no rate increases when other Sections received the 125% rate increase for minimum wage or the 4.9% COLA and that this has had a dramatic and negative impact on service quality for waiver recipients and the sustainability of the service in the state of Maine. Commenter shares that OADS indicates the current rates are high per a previous rate study that they have not seen and therefore were not entitled to receive an increase. Commenter states this is not valid when you consider how the pandemic changed the industry, HCBS remediation needs, inflation, Portland wage increases, and the staffing crisis.

Commenter is concerned, that there is no current accurate Community Support rate study that is open to the public for review and that per federal law they should have access to this information. The last study available to the public is outdated and does not consider the new HCBS changes and inflation. Commenter notes, the last Burns & Associates rate study provides only one hour for documentation time per week for a 1:3 ratio, which is not accurate with the MaineCare required documentation standards or the new HCBS/OADS therapy doc template recently released for provider use. Commenter states it takes five hours per week to meet both standards which is five times more than the most recent rate study shared with the public. Commenter states this study and methodology does not consider the new tier model complexities which are confusing, unrealistic and has a negative financial impact on the service, further, it does not consider the minimum wage increases that have and continue to take place in Portland.

Commenter states the new community supports tier rate model needs to be reexamined as it is confusing, and it is imperative the 1:3 average is put back in place and that the new imposed 1:3cap is removed. By not having the average it does not allow for the flexibility the service needs to meet the waiver recipients HCBS needs around choices. Commenter states it also does not support the day-to-day realities providers face with staffing complexities and the unpredictability of transportation services. Commenter asks that providers have the ability to

implement quality individualized services following a 1:3 ratio that allows flexibility to not exceed a 1:6 ratio with the intent the only time you would exceed the 1:3 ratio would be to meet the individuals HCBS standards, person centered planning goals, diagnosis needs, and avoiding impeding on services authorizations, like sending individuals home to meet a 1:3 cap due to various reasons.

Commenter states, Community Support needs the 125% increase and 4.9% COLA that was given to all other healthcare sectors. It also needs rates that meet the needs to comply with the HCBS services. If Maine does not want a full collapse of this service that thousands of waiver recipients rely on for ISP's: skill development, community connectivity, wellbeing, career exploration and more, action needs to take place ASAP.

18. Comment: Commenter 18, former CEO at BFLI and Bancroft, shared insights from his work in Section 21 services, to show how we got to where we are now. Commenter advised to keep things simple, therapeutic, and not to overregulate.

Commenter reviewed the website and was interested particularly in the fact that it was identified that Section 21 and case management were called high outliers. Commenter wanted to share he has done analysis over the years and doesn't know if we take into consideration minimum wage, that different states mandate that happen but sometimes costs went up because they were required to pay 125% of minimum wage, which is beyond what Pennsylvania, who are \$7 an hour. Commenter continues, in other words, a higher anomaly could be for a reason, besides being wasteful. Commenter also wants to point out that there is the issue of massive increases for requirements on documentation with both case management and with shared living when HCBS came into focus here, (Commenter states he wrote the first white paper on shared living), and he knows the Department is looking at a second. Commenter explains in the past, they did a second, and a third, they even did a fourth. For shared living, they tiered the funds accordingly so that there were savings for the State. But Commenter continues, the provider also was compensated for the additional work, and it looks like we are doing this again, and commenter think's that is great, but wants to mention regarding shared living, with respect to HCBS, the basic foundational assumption was that we were going to do something different than what we had done before. Commenter shares that this came out of a pilot study that was done at Penn Press services in Pennsylvania, in 1980, where they approached the federal government and suggested that there was a more therapeutic model where we could reimburse families to support clients in the most optimal environment, the family, as opposed to a 6, 10, or 12 bed home. Commenter points out, it was going to be a tradeoff, things were going to be more simple and less regulated, there were going to be savings, and it was going to be a therapeutic environment. For instance, with HCBS, what we just went through, everyone was all hands-on deck, a slam dunk, because they looked at us as if every one of our sites was an assistant living facility. Commenter wants to remind us that there

were basic foundational assumptions that were put in, not to overregulate things, but keep them simple, and keep them therapeutic.

19. Comment: Commenter 19, Program Coordinator, Creative Trails asks that Community Support services be included in the rate study process as soon as possible or risk a full collapse of the services

Commenter is concerned that Community Supports received no rate increases when other Sections received the 125% rate increase for minimum wage or the 4.9% COLA and that this has had a dramatic and negative impact on service quality for waiver recipients and the sustainability of the service in the state of Maine. Commenter shares that OADS indicates the current rates are high per a previous rate study that they have not seen and therefore were not entitled to receive an increase. Commenter states this is not valid when you consider how the pandemic changed the industry, HCBS remediation needs, inflation, Portland wage increases, and the staffing crisis.

Commenter is concerned, that there is no current accurate Community Support rate study that is open to the public for review and that per federal law they should have access to this information. The last study available to the public is outdated and does not consider the new HCBS changes and inflation. Commenter notes, the last Burns & Associates rate study provides only one hour for documentation time per week for a 1:3 ratio, which is not accurate with the MaineCare required documentation standards or the new HCBS/OADS therapy doc template recently released for provider use. Commenter states it takes five hours per week to meet both standards which is five times more than the most recent rate study shared with the public. Commenter states this study and methodology does not consider the new tier model complexities which are confusing, unrealistic and has a negative financial impact on the service, further, it does not consider the minimum wage increases that have and continue to take place in Portland.

Commenter states the new community supports tier rate model needs to be reexamined as it is confusing, and it is imperative the 1:3 average is put back in place and that the new imposed 1:3cap is removed. By not having the average it does not allow for the flexibility the service needs to meet the waiver recipients HCBS needs around choices. Commenter states it also does not support the day-to-day realities providers face with staffing complexities and the unpredictability of transportation services. Commenter asks that providers have the ability to implement quality individualized services following a 1:3 ratio that allows flexibility to not exceed a 1:6 ratio with the intent the only time you would exceed the 1:3 ratio would be to meet the individuals HCBS standards, person centered planning goals, diagnosis needs, and avoiding impeding on services authorizations, like sending individuals home to meet a 1:3 cap due to various reasons.

Commenter states, Community Support needs the 125% increase and 4.9% COLA that was given to all other healthcare sectors. It also needs rates that meet the needs to comply with the HCBS services. If Maine does not want a full collapse of this service that thousands of waiver recipients rely on for ISP's: skill development, community connectivity, wellbeing, career exploration and more... action needs to take place ASAP.

20. Comment: Commenter 20, Section 21 Shared Living Provider, feels the state needs to stop investing in failed agency programs and realize, we are paying for one staff for each client and getting one staff period. Commenter states he is going by numbers of staff and not all the other funds agencies are paid. Commenter states that 50% of clients could be in homes if reimbursement was appropriate as staff from agencies would take them in and save countless dollars. Commenter shares that after having a client at increased level for 15 years, he took another client in and found he was paid less per day than he was paid in 1999 at \$150. Commenter states that costs are up 63% and pay is under \$150 now, between \$110 to \$143. Commenter asks why the state would pay for clients to be in an agency at \$500 each x 2 = \$1000 a day with one staff member for both, instead of paying \$225 a day and saving \$540 dollars a day. This is the same system Medicare calls the best for the clients and their freedom.

21. Comment: Commenter 21, Executive Director of Independence Advocates of Maine (IAM). requests that Section 21 T2016 Agency Home Support Services and Section 21/29 T2021 Community Supports services be included as part of the 2023 schedule, noting the service is on the verge of complete collapse

Commenter states, Section 21 T2016 Agency Home Support Services needs a transparent, publicly noticed rate study with stakeholder input included in this year's Rate Determination Schedule to continue as a viable service. This service funds Group Homes for adults with disabilities and provides 2-6 adults with 24/7 specialized throughout the state. Commenter noted that more than 47 group homes closed or collapsed in the last 18 months, and another anticipated 30 closing by the end of the year and that this service is on the verge of complete collapse.

Commenter shares that this service has not had a rate study in well over a decade and although the Department did increase the labor components of the rates in July 2021 and January 2022 as part of the AAAA 125% legislative initiative, DHHS adopted a new rate methodology that decreased the percentage of program costs that make up this rate. So, while the labor costs technically support 125% of minimum wage, the rate does not adequately support the program costs leaving providers with a rate with an inadequate rate. Commenter adds, the review of this rate did not go through public notice, involve a rate study, or have a mechanism for public/provider input which is in stark contrast to the current Burns & Associates rate-setting process that is now underway for Sections 13, 21, 29, 65, and 92.

Commenter states while Section 21/29 T2021 Community Supports services underwent a rate determination conducted in 2020, the determination was on noncomparable Sections of MaineCare rules, (Sections 18 and 19). Commenter adds, the process was without public, specifically, provider input. Commenter continues, saying that since this determination, these services have also undergone significant rule and waiver changes to include new tiered rate structures and new staff service delivery ratios that have significantly changed the service model. Therefore, Commenter 21 again requests these services be included in the 2023 schedule so that they may undergo a rate review utilizing *IDD provider* service costs.

Commenter states the cost of providing this service has increased, and although this service fell under the AAAA initiative 2020, COLA was not applied to this service.

22. Comment: Commenter 22, LSW and Director of Program Compliance for Northeast Residential Services, requests on behalf of Northeast Residential Services (NRS), that a transparent, publicly noticed rate study with stakeholder input be included in this year's Rate Determination Schedule for Section 21 (T2016) Agency Group Home Supports.

Commenter states that group homes for adults with disabilities provide up to six vulnerable adults with varying diagnoses the opportunity to receive specialized support around the clock from direct support professionals in homes located all throughout communities in Maine. Commenter continues, this service alone has not received the opportunity for a rate study in well over a decade. In the last 18 months alone, more than 47 group homes have closed or collapsed due to lack of funding that provides pay for services, staff, medical equipment, vehicles to provide community inclusion, etc., disrupting hundreds of MaineCare members. Commenter shares this has led to many Mainers receiving waiver services being forced into other living arrangement and uprooting from their communities, most of which have lived there for more than half their lives. Commenter notes, it is also anticipated, based on survey analysis, that an additional 30 group homes are at risk of closure by the end of the year.

Commenter acknowledges the effort put forth by the Department to increase the labor components of agency group home rates in July of 2021, as well as January of 2022, as part of the AAAA 125% legislative initiative, which was very much needed systematically from our perspective as prior to July of 2021, labor components had been nearly a dollar below the minimum wage set at \$11.22. However, when these increases were made public, NRS was unaware that the Department also adopted a new rate model and methodology for this service that decreased the percentage of program costs that make up this rate. Unfortunately, Commenter states, the Department reviewed this rate without giving notice to the public, conducting a formalized rate study was done in the past with similar waiver services, or involve key stakeholders proving these services for input and opportunities to comment.

Commenter adds, that although the increases issued recently did support 125 percent of the minimum wage, it did not take into consideration program costs to adequately serve those individuals receiving services in addition to the staff, utility costs, inflation rates, insurance,

overhead to maintain compliance with all regulations administratively, the list goes on. Commenter states NRS and some of its colleagues did take notice of the recent Burns & Associates rate setting process the Department is engaging in with other Sections (13, 21, 29, 65, 92) and would greatly appreciate the opportunity to have agency group home data evaluated through their thorough and transparent process.

Commenter continues, in addition to the reasons listed above, a rate study conducted in collaboration with Burns & Associates would also allow the waiver to be evaluated in conjunction with the mandatory HCBS regulations due to go into effect in early 2023 and the Departments Life Span Project that aims to bring more resources with ease of access to members across the state. Commenter states, by doing so, the Department will fulfill its goals for transparency with vital input from its community providers by including this form of service to the rate setting schedule for the year 2023.

23. Comment: Commenter 23, Executive Director for Maine Association for Community Service Providers (MEACSP) asks that the Department include Section 21 T2016 Agency Home Support Services, also known as Group Home Services, and Section 21 & Section 29 T2021 Day Habilitation Services, also known as Community Supports Services, in the final Rate Determination Schedule which would allow for a publicly noticed rate study with stakeholder input for this service to be conducted. Commenter adds, that MACSP supports the inclusion of 20, 21, 102 - Home & Community Based Services: Nursing and Clinical Only and 97 (Appendix F) - Non-Case Mixed Medical and Remedial Facilities, as currently outlined in the Proposed Rate Determination Schedule.

Commenter respectfully recommends that Section 21 T2016 be included in the final Rate Determination Schedule and that the Department conduct a properly noticed rate study as Section 21 T2016 Agency Home Support Service has not had a rate study in well over a decade. Commenter adds, the Department did provide a long overdue increase in July of 2021 and then again in January of 2022 as part of the AAAA 125% legislative initiative and that they welcomed the increase as up until July of 2021, labor components had been nearly \$1.00 below minimum wage at \$11.22.

Commenter states Providers were not aware that when the Department increased the rate in 2021, ahead of the AAAA 125% minimum wage increase, that they also adopted a new rate model and methodology for the service that decreased the percentage of the rate that reflects the program costs for the service. Commenter adds, the review of this rate was not publicly noticed, did not involve a new rate study, provider input, nor outreach to stakeholders to review the new model and methodology and to date, only the model has been released. Commenter continues, while the new rate now technically supports 125% of minimum wage, the rate does not adequately support the program costs leaving providers with a rate that does not support the service and as a result, group homes continue to close and collapse.

Commenter states a recent MACSP survey found that 47 group homes have closed or collapsed in the last 18 months disrupting hundreds of MaineCare members, often uprooting them from the communities where they have made and built meaningful connections and lives. Commenter adds that they anticipate another 30 homes closing by the end of the year.

Commenter states the changes in the Agency Home Support Service rate in 2021 is in stark contrast to the current rate setting process the Department is currently engaged in for Sections 13, 21, 28, 65 and 92 rate studies. Commenter adds, MACSP members provide services under these Sections and have been impressed with the data gathering directly from providers, as well as the transparent process and communication the Department has had with all stakeholders for this effort. Commenter continues, we do not believe that the rate determination the Department conducted last year for Agency Home Support Service meets their previous nor current goals for transparency and stakeholder input.

Commenter requests that Section 21 & Section 29 T2021 Day Habilitation Services also known as Community Supports Services be added to the 2023 Rate Determination Schedule to undergo a rate review utilizing IDD provider service information and costs, as these services have undergone significant rule and waiver changes following a rate determination which was conducted in 2020. Commenter adds, the change in this service rate did not involve IDD provider input but was based on a rate study conducted for Sections 18 and 20 with input from providers of brain injury services and services for persons with other related conditions. Commenter continues, changes in Community Supports Service under Sections 21 and 29 that followed the last rate determination, include a new tiered rate and service model along with a 1:3 fixed staff ratio for group service that significantly changes the model and billable service time. The additional requirements for increased documentation to support Maine's recent adoption of the Federal HCBS Settings Rule have also impacted this rate. In closing, Commenter states that although this service fell under the AAAA initiative, the January 2022 COLA of 4.94% was not applied to this rate. As a result, the rate has become more inadequate and providers report further collapse of Community Supports services limiting the access to opportunities for people with disabilities that they need, deserve, and have a right to.

24. Comment: Commenter 24, represents Tri-County Mental Health Services, Social Learning Center. Commenter respectfully requests that Community Support services under Sections 21 and 29 be included in the 2023 schedule so that they may undergo a rate review utilizing IDD provider service costs.

Commenter is very concerned about the Community Supports services under Sections 21 and 29 that have undergone significant rule and waiver changes following a rate determination which was conducted in 2020. Commenter states the change in this rate did not involve IDD provider input but was based on a rate study conducted for Sections 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions. Commenter continues, there have been many changes to our services including the new tiered rate for 1:1, 1:2, and 1:3 services offered to people, The 1:3 (staff to individual served) cap for

services limits the services we can provide and flexibility of both client needs and desires and staffing availability and ultimately choice, the answer to this is more float staff on hand, a cost not covered. In closing, Commenter states that with the HCBS Global Settings Rule, which they support and are compliant with, mandates significantly more time to plan, conduct, and document but the current rate does not support adequate time for these non-direct tasks.

Commenter states the final straw is the COLA has not been afforded the Community Support programs although their costs/services are under the same rate of inflation as the rest of the world; this makes no sense.

Commenter appreciate the Department's attention to this matter and asks the Department to please include Community Supports, Waiver Sections 21 and 29, in the Rate Determination Schedule for 2023.

25. Comment: Commenter 25, CEO Northern Maine General (NMG) a not-for-profit social services organization. states it is imperative to the members served that a transparent, publicly noticed rate study, to include stakeholder input, be conducted in this year's Rate Determination Schedule for Section 21 T2016 Agency Home Supports, and T2021 Community Supports under Sections 21 and 29.

Commenter shares that historically, NMG employs between 250-300 people, but today, numbers are down to less than 120 employees, and they are finding it increasingly difficult to retain and recruit the quality of professional staff needed to serve all the individuals in our communities in need of such supports. Commenter adds, it is NMG's opinion that the labor pool has reduced in capacity over these years while the competition across industries has increased, leaving programs that are dependent on MaineCare reimbursement underfunded and on the verge of collapse.

Commenter relays that prior to July 2021, the rate structure for Section 21 (T2016), established in 2007, had not changed in almost 13 years despite the increases in minimum wage and cost of living. In 2010, NMG supported 28 individuals in waiver homes throughout northern and central Aroostook County but today, NMG can only support 8. Commenter adds, that between 2014 and 2018, NMG was forced to discharge up to ten residents and close four homes due to staff shortages related to the insufficient rate and an inability to remain competitive with wages across industries. Between 2018 and 2021, NMG discharged another ten residents and closed three more homes for the same reason. Some of these members were faced with finding another home over 400 miles from their family, friends, supportive relationships, and established communities. Commenter continues, many of these residents lived in these homes and communities for well over 20 years and had to leave homes that were environmentally adapted to meet each of their needs. They lost access to their preferred staff who knew their individual methods of communication and unique behavioral needs. Some of these members had to work with a staff for years for them to develop a trusting relationship that fostered improved communication of their basic needs and wants. These members were forced to start

over with new people in a new community and a new home. Commenter 25 states they are hard pressed to support the members in their remaining homes now and struggle with the reality that members served in homes they consider to be theirs, are at an almost daily risk of being displaced should a handful of employees decide to go work elsewhere.

Commenter shares that in 2021, in trying to keep up with the minimum wage increases, the Department increased the rate by adopting a new rate methodology that raised the direct care component but decreased a percentage in the program allowance. While this resulted in a rate increase, the program costs, now even higher, were left considerably underfunded. Commenter adds, this rate change was not publicly noticed, did not involve a new rate study, nor allow for stakeholder input.

Commenter further shares that in addition to T2016 Agency Home Supports, the Community Support program (T2021) has also undergone significant rule and waiver changes following a rate determination which was conducted in 2020. The change in this rate did not involve provider input but was based on a rate study conducted for Sections 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions.

Commenter states the department has adopted a new staff billing ratio that significantly changes the model of service. The costs of providing this service have increased and although this service fell under the AAAA initiative, the 2020 COLA was not applied to this service. Commenter continues, this lack of financial support comes at a time when they have been further stretched by the pandemic, recent inflation, and being tasked with implementing what has become a very complex set of HCBS setting compliance requirements.

26. Comment: Commenter 26 is Executive Director of SKILLS, Inc. SKILLS, Inc. Commenter 26 requests that a transparent, publicly noticed rate study with stakeholder input and provider-specific costs analysis for Section 21 Home Support-Agency Per Diem services and Section 21/29 Community Support T2021 (utilizing IDD provider service costs) to undergo a properly noticed rate review as part of the 2023 schedule and further adds it is critical to review Section 97, Appendix F Services and therefore urges the Dept. to keep this on the schedule.

Commenter shares that Section 21/ 29 services are in great need of rate review. SKILLS Inc. serves over 110 people with disabilities of the more than 5000 adults with intellectual disabilities, autism, and brain injuries in Maine. Commenter adds they have nine group home/ waiver homes under Section 21/29 which provides supported housing for 30 people (considered home supports- agency per diem), three center-based community support programs supporting more than 60 people (community supports - center based), and in-home skill building (home support-quarter hour) for nine people. Commenter notes all these people are supported by Medicaid and fall under Sections 21 and 29.

Commenter offers the following supporting comments for Home Support-Agency per-diem/T2016:

- Section 21/ 29 providers are in crisis and access to services has been significantly limited due to the inadequate rates. The Maine Association of Community Services Providers (MACSP) “Summer 2022 Semi-annual Survey” reports that since January 2021, 47 group homes have closed, displacing more than 130 people. An additional 30 homes are projected to close by March 2023, displacing another 80+ individuals. 100% of providers have current staff vacancies and 27% of all Direct Support Professional positions are vacant.
 - SKILLS, Inc, has 30 full-time, benefitted positions vacant and have maintained this level of vacancy for the past 24+ months.
- “Home Supports” for Section 21 and 29 are included in the plan, but it is not clear which home supports services and under which Sections the Department plans to review. Each of the 4 types of Home Support services are wildly different with different cost factors and staffing requirements.
- Section 21 T2016 Agency Home Support Services, provide 2-6 adults with 24/7 specialized support in homes in the community throughout the state. This service has not had a rate study in well over a decade.
 - Home Support - Agency Per Diem is a unique service, required by regulation to always have at least 1 staff-person on the premises. The regulations and the payment structure are at odds, with the payment to the provider being structured based on the number of hours the waiver member is in the home. This means that the reimbursement is not adequate to cover staffing costs when two waiver members choose to go visit family for a holiday weekend in a three-person home.
 - To accomplish the required staffing, overtime is often needed. With a staffing crisis in effect, this methodology has created a downward spiral. With more than 30 staff vacancies due to the low pay rate, mandatory overtime is in effect, and has been since the start of the pandemic. The rate does not account for overtime or other benefits paid to employees to meet these requirements. At SKILLS Inc., overtime accounted for more than \$150,000 in expenses last year - all unreimbursed.
 - While the Department did increase the labor components of the rates in July of 2021 and January of 2022 as part of the 125% legislative initiative, at the same time they also adopted a new rate model and methodology for this service that decreased the other program costs that make up this rate.
 - The review of this rate was not publicly noticed, did not involve a new rate study, and did not include provider input or outreach to stakeholders to review the model or methodology. This is in stark contrast to the current Burns & Associates rate setting process the Department is currently engaged in with Sections 13, 21, 29, 65 and 92.
 - The outcome of this is that the defined labor costs technically support 125% of minimum wage, however the rate does not adequately support the program costs leaving providers with a rate that does not adequately support the service.

- Commenter does not believe that the determination the Department conducted last year meets their previous and current goals for transparency and stakeholder input.

Commenter offers the following supporting comments for Community Support - Center-based/ T2021:

- Community Support services under Section 21 and 29 have undergone significant rule and waiver changes following a rate determination which was conducted in 2020.
 - The change in this rate did not involve IDD provider input but was based on a rate study conducted for Section 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions.
 - IDD community support is far more utilized with more providers than Sections 18 and 20.
 - Commenter asks for community support services under Section 21 and 29 to be included in the 2023 schedule so that they may undergo a rate review utilizing *IDD provider* service costs.
 - Commenter does not believe that the determination the Department conducted in 2020 meets the previous and current goals for transparency and stakeholder input.

27. Comment: Commenter 27, Director of Finance at OHI - asks that a publicly noticed rate study be included in this Rate Determination Schedule for Section 21 (T2016) Agency Home Support Services, and that it be given the same stakeholder engagement opportunity that is currently available to Sections 13, 21, 29, 65 and 92 through Burns & Associates rate setting process.

Commenter states they appreciate the increase in the labor component of the rates as part of the AAAA 125% legislative initiative however when the labor component was adjusted in July of 2021, providers were not aware that the Department also adopted a new rate model and methodology for this service which decreased the program cost component. Commenter adds, the review of this rate was not publicly noticed or involve a new rate study, nor did it involve provider or stakeholder input.

Commenter shares that OHI is also a provider of T2016 Community Support Services under Section 21 which has undergone significant rule and waiver changes. Commenter notes a rate determination was conducted in 2020 but did not involve provider input, instead, it was based on a rate study conducted for Sections 18 and 20 with input only from providers of brain injury and other related conditions services. Commenter continues the changes in this service include a new tiered rate, and a new staff billing ratio that changed the model of the service.

Commenter states that this service also falls under the AAAA initiative but did not receive the COLA increase, therefore they respectfully request that Community Support services under Sections 21 and 29 be included in the 2023 schedule so that a rate review utilizes the input from providers of this service.

28. Comment: Commenter 28, Executive Director for Personal Onsite Development (POD), requests that community support services under Section 21 and 29 be included in the 2023 schedule so that they may undergo a rate review utilizing IDD provider service costs. Commenter 28 provides the following comments to support the request.

Commenter shares that POD serves people with IDD and ASD under HCBS, Sections 21 and 29. These services have undergone significant rule and waiver changes following a rate determination which was conducted in 2020. Commenter adds the change in this rate did not involve IDD provider input but was based on a rate study conducted for Section 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions.

Commenter notes:

- Changes in this service include a new tiered rate.
- The Department has also adopted a new staff billing ratio that significantly changes the model of service.
- Costs of providing this service have increased and although this service fell under the AAAA initiative 2020, the COLA was not applied to this service

29. Comment: Commenter 29, Administrative Assistant for Personal Onsite Development (POD) requests that community support services under Section 21 and 29 be included in the 2023 schedule so that they may undergo a rate review utilizing IDD provider service costs. Commenter 28 provides the following comments to support the request.

Commenter shares that POD serves people with IDD and ASD under HCBS, Sections 21 and 29. These services have undergone significant rule and waiver changes following a rate determination which was conducted in 2020. Commenter adds the change in this rate did not involve IDD provider input but was based on a rate study conducted for Section 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions.

Commenter notes:

- Changes in this service include a new tiered rate.
- The Department has also adopted a new staff billing ratio that significantly changes the model of service.
- Costs of providing this service have increased and although this service fell under the AAAA initiative 2020, the COLA was not applied to this service

30. Comment: Commenter 30, is Executive Director for Independence Association thanks the Dept for including Section 97 Appendix F in the near-term rate review schedule. Commenter urges the Dept. to prioritize Section 21 (T2016) Agency Home Support (Habilitation, Residential,

Waiver) services as one of the first services slated for a rate study, or to pay the true rates owed to providers under that rate methodology. Commenter shares the following comments by procedure code/modifier, and description.

Section 21 (T2016) Agency Home Support (Habilitation, Residential, Waiver):

Commenter notes that per the Director of Compliance of OMS, Maine is still under the rate methodology established in 2007, commonly referred to as the “Deshaies methodology.” Commenter states the following are well documented Federal and State guidelines that govern the implementation of a new rate methodology and further notes that none of these guidelines were followed with the “rate methodology” that occurred last year.

- Commenter states OMS changed the methodology for this service without following the guidelines of 42 CFR 447.200– 205: *“Plan must describe the policy and the methods to be used in setting payment rates for each type of service...”*
- The State Plan must describe the policy and the methods to be used in setting payment rates for each type of service included in the State’s Medicaid program. Id., §447.201. The Department must provide public notice describing any significant “Proposed change in methods and standards” for setting payment rates and explaining why the agency is changing its methods and standards. Id., §447.205.
- Commenter states that OMS failed to notify providers that a rate methodology had taken place until providers noticed it.

Commenter states the decision to postpone a rate study for this service under the presumption that it could lead to a reduction in rate for overnight staff, appears to be a convenient reason to ignore the true costs of this service while additional group homes close. Commenter adds, this supports the overall goal of OADS to increase the number of individuals in Shared Living arrangements, while dozens of group homes across the state continue to close.

31. Comment: Commenter 31, CEO of John F. Murphy Homes, Inc., states that they appreciate that the Department is including nursing services under Section 21 and 29 and Section 97 (Appendix F) in the Rate Determination Schedule as proposed, however, Commenter adds that Agency Home Support Service (T2016) under Section 21 should be immediately included in this year’s Rate Determination Schedule to transparently address the true costs of the service and provide provider partners with a clear and unambiguous methodology to follow.

Commenter 31 states that the operative rate model for this service was established in 2007 and that the Department has not maintained fidelity to this model for years and in the process has persistently underfunded the service.

Commenter shares that the Department alleges that it increased the labor component of this rate model as part of the AAAA 125% legislative initiative in January 2022, however, despite

repeated requests the Department has consistently refused to release any methodological detail upon which it bases its assertion that it has adjusted the labor component. Commenter continues, a review of the Department's published 1915(c) waiver application(s) and amendment materials since the adoption of the 2007 model does not reveal any notice to CMS of methodology changes (or approval thereof).

Commenter adds that in addition to including the T2106 service in this year's Rate Determination Schedule, the Department should acknowledge it is currently bound by the 2007 methodology and redress the arrears that flow from its failure to maintain fidelity to the operative model.

32. Comment: Commenter 32, is Chief Executive Officer for Creative Works, asks that a transparent, publicly noticed rate study with stakeholder input for these services be included in this year's Rate Determination Schedule.

Commenter states that T2016 Agency Home Support Services provide 24/7 supports in group homes throughout local communities in the state and that this service has not had a rate study in over a decade. Commenter acknowledges and appreciates that the Department increased the labor components of the rates in July of 2021, and January of 2022 as part of a legislative initiative, as up until July of 2021 labor components had been nearly \$1.00 below minimum wage. However, Commenter adds, that when the Department increased the rate in 2021, they also adopted a new rate model and methodology for this service. This new rate model decreased the percentage of program costs. Commenter has several concerns with this new rate model. Commenter noted the review of this rate for T2016 Agency Home Support Services was not publicly noticed and that there was not a rate study that included provider input or outreach to stakeholders. Commenter concludes that this resulted in a rate that does not support the staff and program costs for the service, adding that T2016 Agency Home Support Services is experiencing a crisis and that recent data collected shows 47 group homes have closed or collapsed in the last 18 months, and another 30 anticipate closing by the end of the year. Commenter respectfully asks that T2016 Agency Home Support Services be given the same stakeholder engagement opportunity.

Commenter states that Community Supports services under Section 21 and 29 have undergone significant rule and waiver changes following a rate determination which was conducted in 2020, and that the change in this rate did not involve IDD provider input but was based on a rate study conducted for Section 18 and 20 with input solely from providers of brain injury services and services for persons with other related conditions. Commenter requests that community support services under Section 21 and 29 be included in the 2023 schedule so that they may undergo a rate review utilizing IDD provider service costs.

Commenter adds, the Department has also adopted a new staff billing ratio that significantly changes the model of service. Lastly, Commenter states that T2021 Community Supports Services under Section 21 and Section 29 did not receive a COLA adjustment.

33. Comment: Commenter 33, is President & CEO of the Maine HealthCare Association understands that Nursing Homes (Section 67) and PNMI's (Section 97-C) are in progress for a rate determination in Calendar Year 2023 and she agrees that rate reform is needed for long-term care providers but asks that the Department 'do no harm' stating the review process cannot result in a net decrease in reimbursement rates.

Commenter states that during previous stakeholder meetings it was noted that the current cost settlement system is overly complicated and administratively burdensome both to the state and to providers. Commenter agrees. Commenter goes on to state that MaineCare is the primary payer for these services, and currently reimbursement rates do not keep pace with the cost of providing services. Commenter shares that a recent review of filed MaineCare Nursing Facility cost reports for 2021 show there is a 46-million-dollar shortfall between the allowable costs of providing long term care and MaineCare reimbursement. Commenter shares those facilities are struggling to make ends meet and remain open, seeing six facility closures over the past year and many long-term care facilities are at risk of closing in the future. In addition to the lagging reimbursement rate, inflation is skyrocketing, minimum wage rises every year creating wage compression throughout the workforce, and the pandemic's long shadow continues to loom ominously over facilities. Commenter concludes that these factors are driving up the costs of providing skilled nursing care to those who need it the most.

Commenter advises that the review process cannot result in a net decrease in reimbursement rates, noting that we already have too many facilities at risk of closure and not enough capacity to address the future needs of the aging baby boomer population. System capacity is a major concern because it is currently inadequate to meet the needs of Maine's over 65 population. Commenter notes that population is estimated to increase by 45% from 2018 to 2028.

Commenter states, the challenges facing our long-term care facilities are grave—they struggle with a workforce crisis of epic proportions; they struggle with aging facilities with no reimbursement resource to support renovations and upgrades as well as ever-changing regulations and growing administrative burdens.

Commenter invites a robust, transparent discussion and requests opportunities for provider input. MHCA stands ready to be a partner in this process and wants to work together to reach collaborative solutions to continue to provide access to long-term care for Maine's most vulnerable citizens.